HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1575 OF 2005.

The Secretary,
Shree Ram Shikshan Sanstha Matwan
& Anr. ..Petitioners.

Versus.

1. Khanderao Chander Koli,
age 35, r/a Barpadeale, Tal:
Panhala, Dist: Kolhapur.

2. The Education Officer (Sec)
Zill Parishad, Ratnagiri. ..Respondents.

Mandar Limaye for the petitioner.
R. S. Datar for the respondent no.1.
M. H. Solkar, A.G.P. for the respondent no.2 State.

CORAM: S.B.MHASE,J.
DATE: AUGUST 9, 2006.

P.C.

1. Heard learned counsel appearing on behalf of the petitioner and learned A.G.P. for the respondent no.2 -State and Shri. R.S. Datar, learned counsel for the respondent no.1. Mr. Naik, Superintendent from the office of the Education Officer, Secondary, Zilla Parishad, Ratnagiri is present in Court.

2. Respondent No.1 was appointed on the post of peon, which was reserved for the ST category. In

view of the vacancy, names of candidates were called by the petitioner - management from the Social Welfare Department and Employment Exchange. The name of the respondent no.1 was sent by the Employment Exchange as a candidate belonging to ST category. Therefore, respondent no.1 was appointed as a peon. Subsequently, respondent No.1's certificate of caste was sent for verification to Caste Scrutiny Committee. Unfortunately, it was proved that respondent no.1 does not belong to ST category and respondent no.1 belongs to "Special Backward Class" category. Such finding has been recorded by the Scrutiny Committee.

. In view of this finding and as there are Government Resolutions providing protection to the services of persons who were initially recruited in the post of reserved candidates belonging to SC or ST to the effect that services of such candidates shall not be terminated, Mr. M. H. Solkar, learned A.G.P. for the respondent no.2, on instructions from Mr. Parab, Education Officer, Zilla Parishad, Ratnagiri makes a statement that the services of the respondent no.1 will be regularised in SBC category.

3. In fact the procedure is whenever employee

is appointed against the reserved category post, his caste certificate is required to be sent to the Caste Scrutiny Committee for verification. In case the Caste Scrutiny Committee validates the caste certificate then employee's services shall be continued. However, if the scrutiny committee comes to a conclusion that candidate does not belong to reserved category and invalidates the Caste certificate of the employee, relying upon the said order the management can terminate the services of the employee. Accordingly, in the present matter the services of the respondent no.1 were terminated. Learned counsel for the petitoner submitted that the School Tribunal has erroneously observed that enquiry under rule 33 to 37 of the M.E.P.S. Rules was necessary. That finding and observation is absolutely absurd and contrary to the provisions of law. Therefore, order of the School Tribunal is set aside only to that effect. However, the respondent No.1-employee shall continue as Peon with the petitioner management since the Education Officer has made a statement that his services will be approved. In view of this, nothing survives in the petition. Petition is accordingly disposed of on the basis of the statement made by the learned A.G.P. for the State.

(S.B.MHASE, J.)

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